

HOUSE JOURNAL

SEVENTY-FIFTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

TWENTY-FIFTH DAY — WEDNESDAY, FEBRUARY 26, 1997

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 27).

Present — Mr. Speaker; Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Seaman; Serna; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Zbranek.

Absent, Excused — Bosse; Rodriguez; Sadler; Yarbrough.

Absent — Grusendorf; Oliveira.

The invocation was offered by Father G. M. "Mac" Keeble, St. Stephens Episcopal Church, Wimberley, as follows:

Lord God of our Fathers; God of Abraham, Sarah, Isaac, and Jacob; and God and Father of our Lord Jesus Christ: Open our eyes to see your hand at work in the world about us. Guide and bless our representatives in the legislature of this state, that they may enact such laws as shall please you, to the glory of your name, and the welfare of the people of Texas; through Jesus Christ our Lord. Amen.

LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence for today to attend a funeral:

Yarbrough on motion of Kubiak.

The following member was granted leave of absence for today because of important business:

Bosse on motion of Kubiak.

The following member was granted leave of absence for today and tomorrow because of important business:

Sadler on motion of Keel.

The following member was granted leave of absence for today because of important business in the district:

Rodriguez on motion of Kubiak.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 11).

CAPITOL PHYSICIAN

The speaker recognized Representative Siebert who presented Dr. John H. Frederick of San Antonio as the "Doctor for the Day."

The house welcomed Dr. Frederick and thanked him for his participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

MESSAGES FROM THE SENATE

Messages from the senate were received at this time (see the addendum to the daily journal, Messages from the Senate, Message Nos. 1 and 2).

HR 142 - ADOPTED (by Raymond)

Representative Raymond moved to suspend all necessary rules to take up and consider at this time **HR 142**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 142, Recognizing February 26, 1997, as Jim Wells County Day at the State Capitol.

HR 142 was read and was adopted without objection.

HCR 43 - ADOPTED (by Telford)

Representative Telford moved to suspend all necessary rules to take up and consider at this time **HCR 43**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HCR 43, Recognizing February 26, 1997, as Atlanta Day at the Capitol.

HCR 43 was read and was adopted without objection.

HR 169 - ADOPTED (by Denny, McCall, and Madden)

Representative Denny moved to suspend all necessary rules to take up and consider at this time **HR 169**.

The motion prevailed without objection.

(Grusendorf now present)

The speaker laid before the house the following resolution:

HR 169, Designating February 26, 1997, as Collin County Day at the State Capitol.

HR 169 was read and was adopted without objection.

HR 171 - ADOPTED
(by Clark)

Representative Clark moved to suspend all necessary rules to take up and consider at this time **HR 171**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 171, Recognizing February 26, 1997, as Sherman and Denison Chambers of Commerce Day at the Capitol.

HR 171 was read and was adopted without objection.

HR 218 - ADOPTED
(by Galloway)

Representative Galloway moved to suspend all necessary rules to take up and consider at this time **HR 218**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 218, Congratulating Clarence and Helen Mingee on their 50th wedding anniversary.

HR 218 was read and was adopted without objection.

HR 212 - ADOPTED
(by Counts)

Representative Counts moved to suspend all necessary rules to take up and consider at this time **HR 212**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 212, Commending the Sweetwater Jaycees on their sponsorship of the World's Largest Rattlesnake Round-Up.

HR 212 was read and was adopted without objection.

On motion of Representative Brimer, the names of all the members of the house were added to **HR 212** as signers thereof.

HR 141 - ADOPTED
(by Raymond)

Representative Raymond moved to suspend all necessary rules to take up and consider at this time **HR 141**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 141, Recognizing February 26, 1997, as Columbia's Texas Good Government Day at the Capitol.

HR 141 was read and was adopted without objection.

HR 232 - ADOPTED
(by Hunter, et al.)

Representative Hunter moved to suspend all necessary rules to take up and consider at this time **HR 232**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 232, Honoring Anice Barber Read.

HR 232 was read and was adopted without objection.

On motion of Representative Uher, the names of all the members of the house were added to **HR 232** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative Hunter, who introduced Anice Barber Read and her daughters, Courtney Hoffman and Ellen Read.

HR 10 - ADOPTED
(by Howard and Olivo)

Representatives Howard and Olivo moved to suspend all necessary rules to take up and consider at this time **HR 10**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 10, Recognizing February 26, 1997, as Fort Bend County Day at the Capitol.

HR 10 was read and was adopted without objection.

INTRODUCTION OF GUESTS

The speaker recognized Representative Howard, who introduced a delegation from Fort Bend County.

HR 237 - ADOPTED
(by Alexander)

Representative Alexander moved to suspend all necessary rules to take up and consider at this time **HR 237**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 237, Recognizing February 26, 1997, as Navarro County Day at the State Capitol.

HR 237 was read and was adopted without objection.

HR 147 - ADOPTED
(by A. Reyna)

Representative A. Reyna moved to suspend all necessary rules to take up and consider at this time **HR 147**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 147, Honoring Representative Domingo Garcia on his birthday.

HR 147 was read and was adopted without objection.

On motion of Representative Wise, the names of all the members of the house were added to **HR 147** as signers thereof.

HCR 95 - ADOPTED
(by Clark)

Representative Clark moved to suspend all necessary rules to take up and consider at this time **HCR 95**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HCR 95, Congratulating Jeanne Groff.

HCR 95 was adopted without objection.

HR 196 - ADOPTED
(by Pitts)

Representative Pitts moved to suspend all necessary rules to take up and consider at this time **HR 196**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 196, Welcoming the students of Palmer High School and honoring them on the occasion of their visit to the State Capitol.

HR 196 was read and was adopted without objection.

HR 234 - ADOPTED
(by Uher)

Representative Uher moved to suspend all necessary rules to take up and consider at this time **HR 234**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 234, Congratulating Albert and Georgia "Ann" Herreth on the occasion of their 50th wedding anniversary.

HR 234 was adopted without objection.

HR 59 - ADOPTED
(by Oakley)

Representative Oakley moved to suspend all necessary rules to take up and consider at this time **HR 59**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 59, Honoring Frances Arnold Ellis for her contributions to the Paris and Greenville communities.

HR 59 was adopted without objection.

RULES SUSPENDED

Representative Van de Putte moved to suspend the 5-day posting rule to allow the Committee on Economic Development, Subcommittee on **HB 39**, to consider **HB 39**.

The motion prevailed without objection.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Economic Development, Subcommittee on **HB 39**, 3:30 p.m. Thursday, February 27, E2.018, Capitol Extension, to consider **HB 39**.

PROVIDING FOR ADJOURNMENT

Representative Stiles moved that, at the conclusion of the reading of bills and resolutions on first reading and referral to committees, the house adjourn until 10 a.m. tomorrow.

The motion prevailed without objection.

**BILLS AND JOINT RESOLUTIONS ON FIRST READING
AND REFERRAL TO COMMITTEES
RESOLUTIONS REFERRED TO COMMITTEES**

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

ADJOURNMENT

In accordance with a previous motion, the house, at 11:16 a.m., adjourned until 10 a.m. tomorrow.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were

today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HB 1635 (by Horn), Relating to the creation of municipal courts of record in the City of Lewisville.

To Judicial Affairs.

HB 1636 (by Serna), Relating to community service for certain conduct committed by a juvenile on school property or at school-sponsored or school-related activities.

To Juvenile Justice & Family Issues.

HB 1637 (by Alvarado), Relating to increased penalties for fraudulent or other unlawful acts committed under the state Medicaid program that result in injury to a child.

To Public Health.

HB 1638 (by Kuempel), Relating to participation and credit in, contributions to, and benefits and administration of the Texas County and District Retirement System.

To Pensions & Investments.

HB 1639 (by Raymond), Relating to the creation and operation of the Texans Work program and the establishment of the Texas employment and training account.

To Economic Development.

HB 1640 (by Raymond), Relating to adult education programs.

To Economic Development.

HB 1641 (by Davila), Relating to the prosecution of the offense of hindering the apprehension or prosecution of another.

To Criminal Jurisprudence.

HB 1642 (by Keel, Uher, Krusee, and Bonnen), Relating to the abolishment of the Commission on Jail Standards.

To County Affairs.

HB 1643 (by Palmer), Relating to judicial review of state agency orders and decisions and of the validity of agency rules under the Administrative Procedure Act.

To State Affairs.

HB 1644 (by Uher, D. Jones, and Telford), Relating to the regulation of medical radiologic technologists and other persons who perform radiologic procedures.

To Public Health.

HB 1645 (by Goolsby), Relating to cancellation of the voter registrations of persons who are not United States citizens.

To Elections.

HB 1646 (by Goolsby), Relating to death benefit annuities payable by the Employees Retirement System of Texas.

To Pensions & Investments.

HB 1647 (by Delisi), Relating to opportunities for family practice resident medical students to work in a public health setting.

To Public Health.

HB 1648 (by Luna), Relating to public school attendance.

To Public Education.

HB 1649 (by Place), Relating to thwarting the compulsory school attendance law; providing a penalty.

To Public Education.

HB 1650 (by Place), Relating to creating a commercial real estate broker's lien.

To Business & Industry.

HB 1651 (by Siebert), Relating to the resale of property sold to a taxing unit pursuant to foreclosure of an ad valorem tax lien.

To County Affairs.

HB 1652 (by Siebert, Longoria, and Denny), Relating to conducting and financing primary elections.

To Elections.

HB 1653 (by Wise), Relating to the dating of state publications.

To State Affairs.

HB 1654 (by Wise), Relating to the confidentiality of information identifying children who are victims of certain offenses; providing a penalty.

To Criminal Jurisprudence.

HB 1655 (by Gallego), Relating to procedures for determining whether a defendant sentenced to death is incompetent for purposes of execution.

To Criminal Jurisprudence.

HB 1656 (by Gallego), Relating to the recovery of costs and attorney's fees under the Uniform Declaratory Judgments Act.

To Civil Practices.

HB 1657 (by Gallego), Relating to the appeal of certain interlocutory orders.

To Civil Practices.

HB 1658 (by Gallego), Relating to salaries and fees for services of certain prosecutors.

To Judicial Affairs.

HB 1659 (by Gallego), Relating to personal financial disclosure and standards of conduct for district attorneys and criminal district attorneys.

To State Affairs.

HB 1660 (by Bosse), Relating to training requirements for a director of a water district or a water supply corporation.

To Natural Resources.

HB 1661 (by Yarbrough and Talton), Relating to the creation of an offense involving certain sales of tickets to certain events; providing a penalty.

To State Recreational Resources.

HB 1662 (by Counts), Relating to rates for certain lines of insurance.
To Insurance.

HB 1663 (by Oliveira), Relating to the authority of a drainage district to discontinue maintenance of certain parts of its drainage system.
To Natural Resources.

HB 1664 (by Oliveira), Relating to the imposition of a criminal penalty for the removal, damage, or intentional concealment of signs or markers giving information about the location of certain underground facilities.
To Public Safety.

HB 1665 (by Oliveira), Relating to disclosure of the location of certain subsurface conditions by a person who is selling unimproved real property to be used for residential purposes.
To Business & Industry.

HB 1666 (by Ehrhardt, et al.), Relating to the operation of the Texas Department of Housing and Community Affairs and the availability of affordable housing; providing for the issuance of revenue bonds.
To Urban Affairs.

HB 1667 (by Junell), Relating to the confidentiality of documents evaluating the performance of certain officers of community supervision and corrections departments.
To Corrections.

HB 1668 (by Junell), Relating to the fees imposed to fund 9-1-1 services and regional poison control centers and to the oversight of the collection and use of those fees.
To Public Safety.

HB 1669 (by S. Turner), Relating to exempting certain entities that perform cooperative purchasing for local governments from competitive bidding requirements.
To County Affairs.

HB 1670 (by Wohlgemuth and Brimer), Relating to the establishment of a comprehensive plan by a municipality.
To Land & Resource Management.

HB 1671 (by Wohlgemuth), Relating to compulsory attendance in public schools.
To Public Education.

HB 1672 (by Janek), Relating to the requirements of a price list and a memorandum for funeral merchandise and services.
To Public Health.

HB 1673 (by Hunter, et al.), Relating to payment of per diem to members of the Texas State Library and Archives Commission.
To State, Federal & International Relations.

HB 1674 (by Alexander), Relating to an exemption from emissions monitoring requirements for certain small incinerators.
To Environmental Regulation.

HB 1675 (by Burnam), Relating to discrimination against certain victims of family violence by health benefit plan providers.

To Insurance.

HB 1676 (by Driver), Relating to the procedure by which a municipality may dispose of certain land.

To Urban Affairs.

HB 1677 (by Driver), Relating to a firefighter or police officer in certain municipalities who is convicted of a felony.

To Urban Affairs.

HB 1678 (by Garcia), Relating to compensation of school district trustees.

To Public Education.

HB 1679 (by Van de Putte), Relating to requirements for certain health insurance benefits.

To Insurance.

HB 1680 (by Van de Putte), Relating to the investment authority of certain insurers.

To Insurance.

HB 1681 (by Horn), Relating to the sale and delivery of certain motor fuel; providing criminal and civil penalties.

To Energy Resources.

HB 1682 (by Thompson), Relating to the creation of certain district courts.

To Judicial Affairs.

HB 1683 (by Hightower), Relating to the issuance of special license plates to county judges.

To Transportation.

HB 1684 (by Clark), Relating to circumstances in which less than the whole number of a jury may render a verdict in a criminal case.

To Criminal Jurisprudence.

HCR 102 (by Palmer), Memorializing the United States Congress and president to overrule the U.S. Department of Labor policy barring the local use of nonstate employees in administering federal funds under House Bill 1863.

To Economic Development.

HCR 103 (by Williams), Congratulating Betty Jane Burlin on being named 1997 Citizen of the Year by the Grimes County Chamber of Commerce.

To Rules & Resolutions.

HR 233 (by Hunter, et al.), Honoring Otis Wiley of Abilene.

To Rules & Resolutions.

HR 235 (by Uher), In memory of A. M. "Chick" Anderson.

To Rules & Resolutions.

HR 236 (by Serna, Chavez, Moreno, Pickett, and Haggerty), In tribute to Father Pedro de Jesus Maldonado.

To Rules & Resolutions.

SB 438 to Land & Resource Management.

SCR 31 to Rules & Resolutions.

SJR 22 to Revenue & Public Education Funding, Select.

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 11

HCR 52

MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

Message No. 1

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Wednesday, February 26, 1997

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HCR 92 Delisi SPONSOR: Zaffirini
Designating February 25, 1997, as Long-Term Care Ombudsman Day in Texas.

SB 141 Cain
Relating to the power of a county to seize and sell abandoned real property for delinquent ad valorem taxes.

SB 149 Bivins
Relating to post-tenure evaluation of faculty tenured at certain institutions of higher education.

SB 292 Carona
Relating to the period for early voting by personal appearance.

SB 325 Armbrister
Relating to investments by the boards of trustees of local retirement systems for firefighters.

SB 451 Duncan
Relating to municipal perpetual trust funds for cemeteries.

SB 541 West, Royce
Relating to alcoholic beverage seller training programs.

SCR 10 West, Royce

Designating March 4 and 5, 1997, as Delta Days at the State Capitol in honor of the members and officers of Delta Sigma Theta Sorority, Incorporated.

Respectfully,

Betty King
Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas

Wednesday, February 26, 1997 - 2

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

LOCAL AND UNCONTESTED CALENDAR

SB 85 Moncrief
Relating to surrogate decision making.

SB 91 Patterson, Jerry
Relating to the qualifications of a member of the board of directors of an appraisal district.

SB 92 Patterson, Jerry
Relating to the authority of the Bayview Municipal Utility District of Galveston County to install and assess for street lighting.

SB 93 Patterson, Jerry
Relating to providing notice to property owners of the right to protest a property tax matter.

SB 161 Lindsay
Relating to the authority of the commissioners courts of certain counties to alter speed limits on certain highways.

SB 166 Harris
Relating to deferral of proceedings for certain traffic offenses for completion of a driving safety course.

SB 185 Shapiro
Relating to the prosecution of certain sexual assaults committed against children.

SB 188 Madla
Relating to creating an offense for possession of certain information by an inmate of the institutional division or the state jail division of the Texas Department of Criminal Justice.

SB 199 Zaffirini

Relating to the administration of park and recreation districts in certain counties.

SB 222 Sibley

Relating to retirement benefits payable for service as a district or criminal district attorney or county attorney performing the duties of a district attorney.

SB 224 Sibley

Relating to the authority of county judges to issue certain search warrants.

SB 238 Nixon, Drew

Relating to state lottery contracts.

SB 243 Harris

Relating to a child's property damage to a hotel.

SB 290 Zaffirini

Relating to electronic assistance provided by the Health and Human Services Commission.

SB 311 Harris

Relating to the disposition of beneficial interests in insurance.

SB 316 Madla

Relating to the location of community homes.

SB 319 Harris

Relating to the waiver of certain rights by a child.

SB 320 Armbrister

Relating to exempting officers and employees of political subdivisions of this state from certain interest payments in regard to unclaimed property claims.

SB 330 Armbrister

Relating to the sunset review of the State Office of Administrative Hearings.

SB 331 Armbrister

Relating to procedures in a contested case in which the hearing is conducted by the State Office of Administrative Hearings.

SB 333 Harris

Relating to the payments of insurance benefits for a child to the possessory or managing conservator of the child.

SB 344 Harris

Relating to an exemption from ad valorem taxation for certain property acquired for use for a school.

SB 348 Harris

Relating to costs in certain family law cases.

SB 388 Whitmire

Relating to the provision of Texas Poison Control Center Network services to other jurisdictions and entities.

SB 401 Zaffirini

Relating to the duties of the district attorney for the 156th Judicial District.

SB 402 Harris

Relating to the appointment of probate masters for certain courts.

SB 415 Brown

Relating to associate judges appointed by the district courts and county courts at law of Fort Bend County.

SB 434 Harris

Relating to the provision of mental health services, including the review of agency rulemaking by the Health and Human Services Commission and the creation of an advisory committee on inpatient mental health services.

SB 447 Madla

Relating to the practice of barbering.

Respectfully,

Betty King
Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

February 25

Public Health - **HB 358, HB 492, SB 197**